

Federal Reserve System

§ 228.11

April, May, and June billing cycles. The bank violates § 227.26(c) if it provides the consumer with a separate credit product to fund additional security deposits or fees for the issuance or availability of credit.

2. *Payment with funds not obtained from the bank.* A bank does not violate § 227.26(c) if it requires the consumer to pay security deposits or fees for the issuance or availability of credit using funds that are not obtained, directly or indirectly, from the bank. For example, a bank does not violate § 227.26(c) if a \$400 security deposit paid by a consumer to obtain a consumer credit card account with a credit line of \$400 is not charged to a credit account provided by the bank or its affiliate.

26(d) Definitions

1. *Membership fees.* Membership fees for opening an account are fees for the issuance or availability of credit. A membership fee to join an organization that provides a credit or charge card as a privilege of membership is a fee for the issuance or availability of credit only if the card is issued automatically upon membership. If membership results merely in eligibility to apply for an account, then such a fee is not a fee for the issuance or availability of credit.

2. *Enhancements.* Fees for optional services in addition to basic membership privileges in a credit or charge card account (for example, travel insurance or card-registration services) are not fees for the issuance or availability of credit if the basic account may be opened without paying such fees. Issuing a card to each primary cardholder (not authorized users) is considered a basic membership privilege and fees for additional cards, beyond the first card on the account, are fees for the issuance or availability of credit. Thus, a fee to obtain an additional card on the account beyond the first card (so that each cardholder would have his or her own card) is a fee for the issuance or availability of credit even if the fee is optional; that is, if the fee is charged only if the cardholder requests one or more additional cards.

3. *One-time fees.* Non-periodic fees related to opening an account (such as application fees or one-time membership or participation fees) are fees for the issuance or availability of credit. Fees for reissuing a lost or stolen card, statement reproduction fees, and fees for late payment or other violations of the account terms are examples of fees that are not fees for the issuance or availability of credit.

[Reg. AA, 74 FR 5561, Jan. 29, 2009]

EFFECTIVE DATE NOTE: At 74 FR 5561, Jan. 29, 2009, supplement I was added to part 227, effective July 1, 2010.

PART 228—COMMUNITY REINVESTMENT (REGULATION BB)

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APPENDIX A TO PART 228—RATINGS

APPENDIX B TO PART 228—CRA NOTICE

AUTHORITY: 12 U.S.C. 321, 325, 1828(c), 1842, 1843, 1844, and 2901 *et seq.*

SOURCE: 43 FR 47148, Oct. 12, 1978, unless otherwise noted.

§§ 228.1–228.2 [Reserved]

Subpart A—General

SOURCE: Reg. BB, 60 FR 22190, May 4, 1995, unless otherwise noted.

§ 228.11 Authority, purposes, and scope.

(a) *Authority.* The Board of Governors of the Federal Reserve System (the Board) issues this part to implement the Community Reinvestment Act (12 U.S.C. 2901 *et seq.*) (CRA). The regulations comprising this part are issued under the authority of the CRA and under the provisions of the United States Code authorizing the Board:

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(1) To conduct examinations of State-chartered banks that are members of the Federal Reserve System (12 U.S.C. 325);

(2) To conduct examinations of bank holding companies and their subsidiaries (12 U.S.C. 1844); and

(3) To consider applications for:

(i) Domestic branches by State member banks (12 U.S.C. 321);

(ii) Mergers in which the resulting bank would be a State member bank (12 U.S.C. 1828(c));

(iii) Formations of, acquisitions of banks by, and mergers of, bank holding companies (12 U.S.C. 1842); and

(iv) The acquisition of savings associations by bank holding companies (12 U.S.C. 1843).

(b) *Purposes.* In enacting the CRA, the Congress required each appropriate Federal financial supervisory agency to assess an institution's record of helping to meet the credit needs of the local communities in which the institution is chartered, consistent with the safe and sound operation of the institution, and to take this record into account in the agency's evaluation of an application for a deposit facility by the institution. This part is intended to carry out the purposes of the CRA by:

(1) Establishing the framework and criteria by which the Board assesses a bank's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank; and

(2) Providing that the Board takes that record into account in considering certain applications.

(c) *Scope*—(1) *General.* This part applies to all banks except as provided in paragraph (c)(3) of this section.

(2) *Foreign bank acquisitions.* This part also applies to an uninsured State branch (other than a limited branch) of a foreign bank that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(8)). The terms "State branch" and "foreign bank" have the same meanings as in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*); the term "uninsured State branch" means a State branch the deposits of which are not insured by the Federal Deposit Insurance Cor-

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poration; the term "limited branch" means a State branch that accepts only deposits that are permissible for a corporation organized under section 25A of the Federal Reserve Act (12 U.S.C. 611 *et seq.*).

(3) *Certain special purpose banks.* This part does not apply to special purpose banks that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than as incident to their specialized operations. These banks include banker's banks, as defined in 12 U.S.C. 24 (Seventh), and banks that engage only in one or more of the following activities: providing cash management controlled disbursement services or serving as correspondent banks, trust companies, or clearing agents.

§ 228.12 Definitions.

For purposes of this part, the following definitions apply:

(a) *Affiliate* means any company that controls, is controlled by, or is under common control with another company. The term "control" has the meaning given to that term in 12 U.S.C. 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

(b) *Area median income* means:

(1) The median family income for the MSA, if a person or geography is located in an MSA, or for the metropolitan division, if a person or geography is located in an MSA that has been subdivided into metropolitan divisions; or

(2) The statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

(c) *Assessment area* means a geographic area delineated in accordance with § 228.41.

(d) *Automated teller machine (ATM)* means an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the bank at which deposits are received, cash dispersed, or money lent.

(e) *Bank* means a State member bank as that term is defined in section 3(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(d)(2)), except as provided in § 228.11(c)(3), and includes an